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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,367	09/16/2003	Michael Shackleford	1025-0002	9415
43536 7590 04/02/2008 MUSKIN & CUSICK LLC 30 Vine Street SUITE 6 Lansdale, PA 19446				
EXAMINER				
LEIVA, FRANK M				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/662,367

Applicant(s)

SHACKLEFORD, MICHAEL

Examiner

FRANK M. LEIVA

Art Unit

3714

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 62 and 64-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 62 and 64-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 12/27/07.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 13 December 2007 has been entered.

Claim Rejections - 35 USC § 112

2. Claims 66-69 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 66-69 use the terms "copying" and "partial hands", which the examiner will interpret as "displaying" and "intermediate hands" to aid in the examination of the claims.

3. Claim 69 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 69 states "copying the second hold cards to a fourth partial hand", to which the examiner finds difficult to follow, the examiner understands from the specification that the "second set of hold cards will form the "third hand of cards" to be evaluated. The examiner fails to find a second set of hold cards forming a fourth hand of cards. For the purpose of examination of claim 69, the examiner will interpret the statement to read "copying the second hold cards to a third partial hand".

Claim Rejections - 35 USC § 103

4. Claims 62 and 64-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carrico in view of Perrie.

5. Regarding analogous art combination of Carrico and Perrie; Carrico discloses a video poker game with a bonus feature that has a multiple stage re-draws on the original dealt hand of poker, and Perrie on the other hand discloses methods of triggering bonus features on a specific game of dice, that can be applied to any game with a plurality of symbols, and an embodiment that plays on a game with successive hands.

6. **Regarding claim 62; Carrico discloses:** A method of playing a wagering game, the method comprising: receiving a wager; dealing a first hand comprising five cards; allowing a player to indicate replacement cards in the first hand; replacing the replacement cards in the first hand to form a second hand, (col. 2:60 – 3:3); allowing the player to get a second draw, (col. 3:28-31). Carrico is silent to the determination of the bonus draw given to the player being random or not affected by the outcome of the cards drawn.

Perrie discloses:

Making a random determination whether the player is entitled to get a second draw, the random determination made independent of any cards displayed, (col. 6:52-65), whereas the value Y of number of re-rolls could be randomly selected and displayed to the player by using a separate dice or wheel showing specific indicia.

If the random determination determines that the player is entitled to get the second draw, then allowing the player to indicate second replacement cards in the second hand and replacing the second replacement cards in the second hand to form a final hand and ending the game and paying the wager based on a rank of the final hand; if the random determination determines that the player is not entitled to get the second draw, then ending the game and paying the wager based on a rank of the second hand, (col. 7:4-14), wherein the game determines a number of re-rolls entitled and after done completes payout of the last hand achieved.

Wherein when the random determination determines that the player is entitled to get the second draw, indicating to the player that the player is entitled to get the second draw by dealing a double draw card that indicates to the player that the player is entitled to get the second draw, (Col. 12:51-53) whereby the player is entitled a bonus draw if a special symbol (double draw card) appears on deal of the initial or first draw.

A person of ordinary skill in the art at the time of applicant's invention, upon reading Perrie, would have recognized the desirability to improve the multi-Draw game of Carrico by adding special triggers and opportunities for the player to improve his/hers hand and gain another chance to get there money back. Thus it would have been obvious to one of ordinary skill to try the randomly created opportunities for re-rolls of Perrie into the re-draws of Carrico, producing the predictable results stated above.

7. **Regarding claim 64;** Carrico discloses providing a virtual deck of a standard 52 card deck or other non-standard decks having wild cards or a joker (53rd card), (col. 8:18-23), yet Carrico is silent on triggers for the second draw. Perrie on the other hand, discloses several triggers for a bonus re-roll or re-draw for the case of Carrico, including using a 53rd double draw card (or special bonus symbol) added, wherein all cards dealt to the player are dealt from the virtual deck, wherein the random determination determines that the player is entitled to the second draw when the double draw card is dealt to the player, (col. 12:51-54).

8. **Regarding claim 65;** Carrico and Perrie disclose all the limitations of claim 62 from which claim 65 depend on, and Perrie also discloses wherein the random determination determines that the player is entitled to the second draw based on a predetermined probability, (col. 21:41-49), that is in the Leave nothing to chance embodiment, Perrie describes the game having a limit of 7 successes because the probabilities of reaching that stage are high and also rewards the player for achieving the stage. Thus it entitles the player re-draws until a high probability stage and completes or ends the game. This embodiment would have been obvious to try to one of ordinary skill in the art at the time of applicant's invention, since upon reading Perrie one of ordinary skill would have created

the embodiment of "Leave Nothing to Chance", into the invention of Carrico. Carrico already draws several hands and continues up to a limit, it would be predictable to add a stop symbol or loose all card to the deck and incorporate a similar payout scheme as in the Perrie invention.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 66 is rejected under 35 U.S.C. 102(b) as being anticipated by Carrico.

11. Regarding Claim 66; Carrico discloses:

A method implemented on an electronic gaming device, the method comprising: receiving a wager from a player; dealing a first initial hand, (col. 2:60).

Receiving a first indication from the player of first hold card(s) in the first initial hand; copying the first hold card(s) to a partial second hand; replacing first non-hold card(s) in the first hand with first new card(s) to form an intermediate first hand, the first non-hold card(s) being card(s) in the first initial hand that are not first hold card(s); dealing first additional card(s) in the partial second hand, the first additional cards being equal in number to a number of the first non-hold card(s), to form an intermediate second hand, (col. 2:60- 3:3).

Receiving a second indication from the player of second hold card(s) in the intermediate first hand; replacing second non-hold card(s) in the intermediate first hand with second new card(s) to form a final first hand, the second non-hold card(s) being card(s) in the intermediate first hand that are not second hold card(s), (col. 3:6-20).

Receiving a third indication from the player of third hold card(s) in the intermediate second hand; replacing third non-hold card(s) in the intermediate second hand with third new card(s) to form a final second hand, the third non-hold card(s) being card(s) in the intermediate second hand that are not third hold card(s), (col. 3:28-31).

Determining if a final first hand poker rank qualifies the player for a first award, and if so, then awarding the player the first award using the final first hand poker rank; and determining if a final second hand poker rank qualifies the player for a second award, and if so, then awarding the player the second award using the final second hand poker rank, (col. 3:1-4), where there is a first payable for the first draw if applicable, (col. 3:20-22), where there is a second payable for the second draw hand.

12. **Regarding claims 67-69;** Carrico discloses copying (or displaying) the second hold card(s) to a partial third hand; dealing second additional card(s) in the partial third hand, the second additional card(s) being equal in number to the number of the second non-hold card(s) , to form a final third hand, (col. 3:3-20); copying the third hold card(s) to a partial fourth hand; dealing third additional card(s) in the partial fourth hand, the third additional card(s) being equal in number to the number of third non-hold card(s), to form a final fourth hand, (col. 3:28-31), wherein the game will repeat the operations of second and third hand until all cards are used or limited by game optioning.

Determining if a final third hand poker rank qualifies the player for a third award, and if so, then awarding the player the third award using the final third hand poker rank; and determining if a final fourth hand poker rank qualifies the player for a fourth award, and if so, then awarding the player the fourth award using final fourth hand poker rank, (col. 3:3-4, 3:20-22 and 3:29-31), wherein each stage is awarded with a different payable according to the numbered draw.

Response to Arguments

13. Applicant's arguments filed 13 December 2007 have been fully considered but they are not persuasive for the following reasons.

14. Regarding the argument on page 6 of applicant's remarks of the 35 U.S.C §112 rejection of claims 62 and 64-65, is found persuasive and rejection withdrawn.

15. Regarding the argument on page 6 of applicant's remarks directed to the 35 U.S.C. §103(a) rejection of claims 62, 64 and 65; where Perrie does not disclose "Using a special card (double draw card), to represent the beginning of the second draw feature", the examiner points that Perrie teachings of the trigger of the special card or symbol in Perrie (Col. 12:51-53), is use in combination with the bonus second draw feature of Carrico.

16. Regarding the argument on page 6 of applicant's remarks directed to the teaching of reeled slot machines not transferring to a bonus video poker game, the examiner fails to see a difference from a virtual reel with 53 symbols and a deck of 53 virtual cards generated by a random generator. Or the combination of both poker and slot games such as "Spin Poker" by Action Gaming.

17. Regarding the argument on page 7 of applicant's remarks directed to claim 64 the current office action shows in detail where the special deck of cards limitation is taught, see rejection above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML 03/26/2008

/Scott E. Jones/

Primary Examiner, Art Unit 3714